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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,330	12/27/2000	Walter J. Pories	5218-78	5414
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EXAMINER

NAJARIAN, LENA

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/749,330		PORIES ET AL.	
	Examiner		Art Unit	
	Lena Najarian		3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2000.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-57 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 27 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1-3</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 25b1, 25b2, and 25b3 in Figure 1B. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8, 11-27, 30-46, and 49-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Ross, Jr. et al. (5,823,948).

(A) Referring to claim 1, Ross discloses a method for generating an electronic clinical medical record from a given patient encounter, comprising the steps of (col. 1, lines 41-44 of Ross):

(a) accepting entry of an identification of an illness for that patient into a data processing system via an input device (col. 1, lines 16-18 and col. 2, lines 52-54 of Ross);

(b) displaying an initial defined retrievable clinical lexicon for the illness via the input device, the defined retrievable clinical lexicon comprising words and phrases associated with the illness (col. 3, lines 9-12, 27-31 & 47-50 of Ross; the Examiner interprets "prestored personalized text" to be a form of "lexicon");

(c) accepting selection of a subset of words and phrases from the displayed defined retrievable clinical lexicon for the patient encounter (col. 3, lines 9-12 of Ross); and then

(d) generating a clinical medical record from the selected subset of words and phrases (col. 3, lines 15-23 of Ross).

(B) Referring to claim 2, Ross discloses wherein step (b) comprises simultaneously displaying the words and phrases of the defined retrievable clinical lexicon (col. 5, lines 45-49 of Ross).

(C) Referring to claim 3, Ross discloses the step of (e) adding a word or phrase to the defined retrievable clinical lexicon after the displaying step so that the word

or phrase may be incorporated into the clinical medical record (col. 3, lines 9-14 of Ross).

(D) Referring to claim 4, Ross discloses the step of (f) deleting a word or phrase from the defined retrievable clinical lexicon after the word or phrase is not selected after a predetermined number of patient encounters in which the defined retrievable clinical lexicon containing the word or phrase is displayed (col. 8, lines 57-66 of Ross).

(E) Referring to claim 5, Ross discloses wherein step (d) is carried out with a natural language generator (col. 7, lines 60-65 of Ross).

(F) Referring to claim 6, Ross discloses wherein the input device comprises a touch tablet display (col. 2, lines 52-54; the Examiner interprets the "touch screen" to be a form of touch tablet display).

(G) Referring to claim 7, Ross discloses wherein a previous clinical medical record exists for the patient, and wherein the defined retrievable clinical lexicon is modified via information contained within the previous clinical medical record (col. 7, lines 24-31 of Ross).

(H) Referring to claim 8, Ross discloses wherein step (c) further comprises accepting selection of patient anatomic information from a displayed anatomic reference chart (col. 9, lines 13-19 of Ross; the Examiner interprets "graphical display of the body part" to be a form of anatomic reference chart).

(I) Referring to claim 11, Ross discloses a method for generating an electronic clinical medical record from a given patient encounter, comprising the steps of (col. 1, lines 41-44 of Ross):

(a) accepting entry of an identification of an illness for that patient into a data processing system via an input device (col. 1, lines 16-18 and col. 2, lines 52-54 of Ross);

(b) displaying an initial defined retrievable clinical lexicon for the illness via the input device, the defined retrievable clinical lexicon comprising words and phrases associated with the illness (col. 3, lines 9-12, 27-31 & 47-50 of Ross; the Examiner interprets "prestored personalized text" to be a form of "lexicon");

(c) accepting entry of an identification of at least one existing medical condition or prior medical treatment for the patient into the data processing system via the input device (col. 3, lines 27-31 of Ross);

(d) displaying a subsequent defined retrievable clinical lexicon for at least one of the existing medical condition or prior medical treatment via the input device (col. 3, lines 27-31 & 9-12 of Ross);

(e) accepting selection of a subset of words and phrases from the displayed defined retrievable clinical lexicon for the patient encounter (col. 3, lines 9-12 of Ross); and then

(f) generating a clinical medical record from the selected subset of words and phrases (col. 3, lines 15-23 of Ross).

(J) Claims 12-16 repeat the same limitations of claims 2-6, and are therefore rejected for the same reasons given for those claims.

(K) Referring to claim 17, Ross discloses a method for generating a plurality of searchable electronic clinical medical records from a plurality of patient

encounters between different patients and different clinicians, comprising the steps of (col. 1, lines 41-44 of Ross):

(a) accepting entry into a data processing system via an input device an identification of an illness for a patient during a given patient encounter (col. 1, lines 16-18 and col. 2, lines 52-54 of Ross);

(b) displaying a defined retrievable clinical lexicon for the illness via the input device, the defined retrievable clinical lexicon comprising words and phrases associated with the illness (col. 3, lines 9-12, 27-31 & 47-50 of Ross; the Examiner interprets "prestored personalized text" to be a form of "lexicon");

(c) accepting selection of a subset of words and phrases from the displayed defined retrievable clinical lexicon (col. 3, lines 9-12 of Ross);

(d) generating a clinical medical record from the selected subset of words and phrases for the patient encounter (col. 3, lines 15-23 of Ross); then

(e) repeating steps (a) to (d) above for a plurality of additional different patients during a plurality of different patient encounters to create a plurality of separate clinical medical records for the plurality of patients (col. 1, lines 5-9 of Ross);

(f) searching the plurality of separate clinical medical records for at least one word or phrase (col. 5, lines 45-48 of Ross); and then

(g) generating a report indicating those separate clinical medical records from among the plurality of separate clinical medical records containing the at least one word or phrase (col. 16, lines 56-65 of Ross).

(L) Referring to claim 18, Ross discloses further comprising the step of (h) performing statistical analysis on the plurality of separate clinical medical records (col. 2, lines 7-8 of Ross).

(M) Referring to claim 19, Ross discloses wherein step (h) comprises performing regression analysis or multivariate analysis (col. 8, lines 37-39 of Ross; the Examiner interprets "statistical trend analysis" to be a form of regression analysis).

(N) System claims 20-27 and 30-38 repeat the subject matter of claims 1-8 and 11-19 as a set of "means-plus-function" elements rather than a series of steps. As the underlying process has been shown to be fully disclosed by the teachings of Ross in the above rejection of claims 1-8 & 11-19, it is readily apparent that the Ross reference includes a system to perform the recited functions. As such, these limitations are rejected for the same reasons provided in the rejection of claims 1-8 & 11-19 and incorporated herein.

(O) Claim 39 differs from method claim 1 by reciting "a computer program product" and "the computer program product comprising a computer usable storage medium having computer readable program code embodied in the medium" within its preamble. As per these elements, Ross's medical records, documentation, tracking, and order entry system includes central processing units with hard disks (col. 4, lines 60-61 of Ross) and generation software (col. 4, lines 46-49 of Ross). As such, it is readily apparent that Ross's system is controlled by a computer program product.

The remainder of claim 39 repeats the same limitations of method claim 1, and is therefore rejected for the same reasons given above for claim 1, and incorporated herein.

(P) Claims 40-46 repeat the same limitations of claims 2-9, and are therefore rejected for the same reasons given for those claims.

(Q) Claim 49 differs from method claim 11 by reciting "a computer program product" and "the computer program product comprising a computer usable storage medium having computer readable program code embodied in the medium" within its preamble. As per these elements, Ross's medical records, documentation, tracking, and order entry system includes central processing units with hard disks (col. 4, lines 60-61 of Ross) and generation software (col. 4, lines 46-49 of Ross). As such, it is readily apparent that Ross's system is controlled by a computer program product.

The remainder of claim 49 repeats the same limitations of method claim 11, and is therefore rejected for the same reasons given above for claim 11, and incorporated herein.

(R) Claims 50-54 repeat the same limitations of claims 2-6, and are therefore rejected for the same reasons given for those claims.

(S) Claim 55 differs from method claim 17 by reciting "a computer program product" and "the computer program product comprising a computer usable storage medium having computer readable program code embodied in the medium" within its preamble. As per these elements, Ross's medical records, documentation, tracking, and order entry system includes central processing

units with hard disks (col. 4, lines 60-61 of Ross) and generation software (col. 4, lines 46-49 of Ross). As such, it is readily apparent that Ross's system is controlled by a computer program product.

The remainder of claim 55 repeats the same limitations of method claim 17, and is therefore rejected for the same reasons given above for claim 17, and incorporated herein.

(T) Claims 56-57 repeat the same limitations of claims 18-19, and are therefore rejected for the same reasons given for those claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9, 28, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross, Jr. et al. (5,823,948) as applied to claims 1, 20, and 39 above, and further in view of Joyce et al. (US 2001/0053984 A1).

(A) Referring to claim 9, Ross does not disclose wherein step (c) further comprises accepting selection of a numeric indicator of severity of a patient condition.

Joyce discloses accepting selection of a numeric indicator of severity of a patient condition (paragraph 51 and Fig. 6, item 108 of Joyce).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Joyce within Ross. The motivation for doing so would have been to obtain the condition of the patient and to plan subsequent treatments (paragraph 10, lines 1-4 of Joyce).

(B) Claim 28 repeats the same limitations of claim 9, and is therefore rejected for the same reasons given for that claim.

(C) Claim 47 differs from method claim 9 by reciting "a computer program product" and "the computer program product comprising a computer usable storage medium having computer readable program code embodied in the medium" within its preamble. As per these elements, Ross's medical records, documentation, tracking, and order entry system includes central processing units with hard disks (col. 4, lines 60-61 of Ross) and generation software (col. 4, lines 46-49 of Ross). As such, it is readily apparent that Ross's system is controlled by a computer program product.

The remainder of claim 47 repeats the same limitations of method claim 9, and is therefore rejected for the same reasons given above for claim 9, and incorporated herein.

6. Claims 10, 29, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross, Jr. et al. (5,823,948) as applied to claims 1, 20, and 39 above, and further in view of Evans (5,642,936).

(A) Referring to claim 10, Ross does not disclose the step of (g) displaying information about medical conditions of members of a patient's family via a genetic tree.

Evans discloses a family tree containing the history of specific diseases (col. 1, lines 22-24, col. 2, lines 13-16 & Table 1 of Evans).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Evans within Ross. The motivation for doing so would have been to determine the existence of a hereditary disease risk in a patient (col. 2, lines 9-11 of Evans).

(B) Claim 29 repeats the same limitations of claim 10, and is therefore rejected for the same reasons given for that claim.

(C) Claim 48 differs from method claim 10 by reciting "a computer program product" and "the computer program product comprising a computer usable storage medium having computer readable program code embodied in the medium" within its preamble. As per these elements, Ross's medical records, documentation, tracking, and order entry system includes central processing units with hard disks (col. 4, lines 60-61 of Ross) and generation software (col. 4, lines 46-49 of Ross). As such, it is readily apparent that Ross's system is controlled by a computer program product.

The remainder of claim 48 repeats the same limitations of method claim 10, and is therefore rejected for the same reasons given above for claim 10, and incorporated herein.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a system and method for medical language extraction and encoding (6,055,494); an integrated medical test data storage and retrieval system (4,315,309); and a system for converting medical information into representative abbreviated codes with correction capability (5,809,476).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is (703) 305-0260. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY EXAMINER